

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

|                        |   |                        |
|------------------------|---|------------------------|
| LUIS SAN ROMAN,        | ) |                        |
|                        | ) |                        |
| Petitioner,            | ) |                        |
|                        | ) |                        |
| -vs-                   | ) | Case No. CIV-10-1158-F |
|                        | ) |                        |
| MARVIN VAUGHN, WARDEN, | ) |                        |
|                        | ) |                        |
| Respondent.            | ) |                        |

**ORDER**

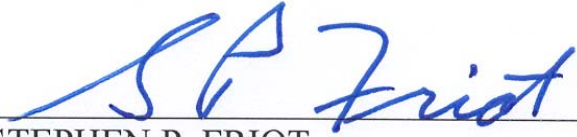
Petitioner, represented by counsel, has objected to the January 26, 2011 Report and Recommendation of United States Magistrate Judge Valerie K. Couch, wherein Magistrate Judge Couch recommended that respondent's motion to dismiss be granted and that petitioner's petition for writ of habeas corpus under 28 U.S.C. § 2254 be dismissed as untimely pursuant to 28 U.S.C. § 2244(d). Petitioner objects to Magistrate Judge Couch's finding that equitable tolling of the one-year limitations period for petitioner's § 2254 petition is not proper. Petitioner argues that the facts of his case fully support equitable tolling of the limitations period.

The court has conducted a *de novo* review of the matter in accordance with 28 U.S.C. § 636(b)(1). Having done so, the court agrees with the finding as well as the recommendation of Magistrate Judge Couch . The court finds petitioner's objection to be without merit. The court accepts, adopts and affirms the Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Valerie K. Couch on January 26, 2011 (doc. no. 11) is **ACCEPTED, ADOPTED** and **AFFIRMED**. Respondent's Motion to Dismiss Petition for Writ of Habeas Corpus (doc. no. 7) is **GRANTED**. The Petition Under

28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody filed by petitioner, Luis San Roman, is **DISMISSED** as untimely pursuant to 28 U.S.C. § 2244(d).

DATED April 6, 2011.

  
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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

10-1158p006.wpd